

APPEAL NO. 040007  
FILED FEBRUARY 25, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 8, 2003. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) was entitled to supplemental income benefits (SIBs) for the fourth quarter (July 30 through October 28, 2003). The appellant (carrier) appealed the determination of entitlement, disputing the good faith and direct result determinations. The appeal file does not contain a response from the claimant.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant sustained a compensable injury on \_\_\_\_\_, that the claimant had a 15% impairment rating, and that the qualifying period for the fourth quarter was from April 18 through July 17, 2003. At issue in this case was whether the claimant made a good faith effort to obtain employment commensurate with his ability to work by enrolling and satisfactorily participating in a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) pursuant to Rule 130.102(d)(2) and whether the claimant's unemployment was a direct result of the impairment from the compensable injury.

Rule 130.102(d)(2) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been enrolled in, and satisfactorily participated in a full-time vocational rehabilitation program sponsored by the TRC during the qualifying period. The claimant testified that, although, because of financial difficulties, he had only attended two weeks of truck driver training during the qualifying period, he had continued testing and completed eight examinations required for his truck driver certification between June 30 and August 1, 2003. In evidence was a current Individualized Plan for Employment (IPE) dated June 18, 2003, and a letter from the TRC dated August 4, 2003, which identified the claimant as a TRC client who had applied for services, attended a psychological evaluation, attended counseling services, and had begun participating in a truck driver training program. The letter stated that the training would normally take 160 hours, but the claimant was still working to complete his training because of a language barrier. The carrier argues that the good faith determination was error because the claimant only attended the training program for two weeks during the qualifying period and, therefore, had not satisfactorily participated in the TRC program. In Texas Workers' Compensation Commission Appeal No. 020713, decided April 17, 2002, the Appeals Panel noted that the good faith requirement per Rule 130.102(d)(2) is met if at any time during the qualifying period for the quarter in dispute, the claimant is

enrolled in and satisfactorily participating in a TRC-sponsored program. *See also* Texas Workers' Compensation Commission Appeal No. 020192, decided February 28, 2002. Under the facts of this case where the claimant continued to complete required examinations and there is a current IPE and a letter from the TRC stating that the claimant has been receiving services, was enrolled in driver training, and is still working to complete his training, we cannot conclude that the hearing officer's determination on the good faith criteria for SIBs entitlement is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

As far as direct result is concerned, we have stated that a finding of "direct result" is sufficiently supported by evidence that an injured employee sustained an injury with lasting effects and could not reasonably perform the type of work being done at the time of the injury. Texas Workers' Compensation Commission Appeal No. 950376, decided April 26, 1995; Texas Workers' Compensation Commission Appeal No. 950771, decided June 29, 1995. There was evidence of this in the present case, supporting the hearing officer's finding of direct result.

We affirm the decision and order of the hearing officer.

According to information provided by the carrier, the true corporate name of the insurance carrier is **TRANSPORTATION INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Robert W. Potts  
Appeals Judge